

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36003

STATE OF IDAHO,	)	2009 Unpublished Opinion No. 739
	)	
Plaintiff-Respondent,	)	Filed: December 22, 2009
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
WAYNE MACK LANIER,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Timothy L. Hansen, District Judge.

Judgment of conviction and suspended unified sentence of ten years, with four years determinate, for felony driving under the influence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Sarah E. Tompkins, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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Before GUTIERREZ, Judge, GRATTON, Judge  
and MELANSON, Judge

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PER CURIAM

Wayne Mack Lanier was charged with felony driving under the influence of alcohol, Idaho Code, §§ 18-8004, 18-8005(7), and pursuant to a plea agreement, entered an *Alford*<sup>1</sup> plea to the charge and the parties stipulated to a sentence of seven years, with one year determinate. The sentence was to be suspended and Lanier was to be placed on supervised probation. Lanier failed to cooperate with the presentence investigation and the district court therefore was not bound by the sentencing agreement. Lanier filed a motion to withdraw his guilty plea, which the district court denied. The district court sentenced Lanier to a unified term of ten years, with four

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<sup>1</sup> *North Carolina v. Alford*, 400 U. S. 25 (1970).

years determinate and retained jurisdiction. After Lanier completed his rider, the district court suspended the sentence and placed Lanier on probation for ten years. Now on probation, Lanier appeals from his judgment of conviction and sentence, contending that the district court abused its discretion by imposing an excessive sentence.

Where a sentence is within the statutory limits, it will not be disturbed on appeal absent an abuse of the sentencing court's discretion. *State v. Hedger*, 115 Idaho 598, 604, 768 P.2d 1331, 1337 (1989). We will not conclude on review that the sentencing court abused its discretion unless the sentence is unreasonable under the facts of the case. *State v. Brown*, 121 Idaho 385, 393, 825 P.2d 482, 490 (1992). In evaluating the reasonableness of a sentence, we consider the nature of the offense and the character of the offender, applying our well-established standards of review. See *State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 170 P.3d 387 (2007).

Applying the foregoing standards and having reviewed the record, we conclude that the district court did not abuse its discretion by imposing the sentence. Accordingly, Lanier's judgment of conviction and suspended sentence are affirmed.